



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 7

FISH & RICHARDSON, PC
4350 LA JOLLA VILLAGE DRIVE
SUITE 500
SAN DIEGO CA 92122

COPY MAILED

1111 05 2002

OFFICE OF PETITIONS

DECISION GRANTING
PETITION

In re Application of
James L. Jason, Jr.
Application No. 10/045,671
Filed: October 22, 2001
Attorney Docket No. 10559/502001/P11794
For: DETERMINING PACKET SIZE IN
NETWORKING

This is a decision on the petition entitled, "PETITION UNDER 37 CFR 1.182," filed May 7, 2002 (certificate of mailing date April 26, 2002), requesting, in effect, partial withdrawal of the Notice to File Missing Parts of Nonprovisional Application (Notice) insofar as the Notice stated that page 10 of the specification appeared to have been omitted. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on October 22, 2001. On March 1, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioner that page 10 of the specification appeared to have been omitted.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that page 10 of the specification be accorded a filing date of October 22, 2001 on the basis that 11 pages of specification, including page 10, were received in the Patent and Trademark Office (PTO) on October 22, 2001. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing October 22, 2001 as the date of receipt. The postcard lists, *inter alia*, that the filing included 11 pages of specification.

The return postcard constitutes *prima facie* evidence that 11 pages of specification, including page 10, were filed on October 22, 2001. MPEP 503. Accordingly, the request is granted.

Pursuant to petitioner's authorization, the \$130.00 petition fee will be credited to deposit account no. 06-1050.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of October 22, 2001, the copy of page 10 submitted with the instant petition. Office records will be corrected to show that 11 pages of specification were present on filing.

Any inquiries pertaining to this matter may be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy